

February 28, 2023

The Honorable Jesse M. Furman
United States District Judge for the Southern District of New York
Thurgood Marshall Courthouse
40 Centre Street, Room 2202
New York, NY 10007

Re: *Golden Unicorn Enterprises., Inc., et al. v. Audible, Inc.*, 1:21-cv-7059-JMF

Your Honor:

The parties write to request the Court's approval of a procedure for moving to seal materials from Audible's motion for summary judgment, the parties' motions to exclude expert testimony under *Daubert*, and Audible's spoliation motion, which are due to be filed on March 6, 2023. In support of its motions, Audible intends to file documents that Plaintiffs designated as "confidential" or "highly confidential" pursuant to the parties' Protective Order (ECF No. 44). In support of their motions, Plaintiffs intend to file documents that Audible designated as "confidential" or "highly confidential" pursuant to the parties' Protective Order (ECF No. 44). The parties are still preparing their motions and do not yet have final briefs or sets of documents they intend to file in support.

On February 27 and 28, 2023, the parties notified one another of their respective intentions to file these confidential and/or highly confidential documents, and the parties agreed on the below procedure, which is similar to the one the Court approved for class certification briefing. *See* ECF Nos. 127, 136, 161, 174.

- **March 6, 2023:** Audible will file a single letter-motion to seal materials from its motion for summary judgment, motions to exclude expert testimony under *Daubert*, and spoliation motion. Audible will file these motions and all supporting documents under seal. Any portions Audible seeks to redact will be highlighted in yellow. Plaintiffs will file their *Daubert* motions under seal, highlighting any portions that they intend to redact.
- **March 13, 2023:** Plaintiffs will file any letter-motion to seal their documents and send Audible any highlighted/redacted briefs and/or exhibits. Audible will file any letter-motion to seal its documents and send Plaintiffs any highlighted/redacted briefs and/or exhibits.
- **March 14, 2023:** Audible will file public and redacted versions of the documents that Audible and Plaintiffs do not move to keep under seal, along with sealed versions of the documents the parties seek to keep under seal in their entirety or with highlights for proposed redactions. Plaintiffs will file public and redacted versions of their *Daubert* motions, with exhibits, that Audible and Plaintiffs do not move to keep under seal, along with sealed versions of the documents the

parties seek to keep under seal in their entirety or with highlights for proposed redactions.

The parties respectfully request that the Court grant the parties' proposal given the likely number and complexity of the documents at issue and to allow the parties sufficient time to review and justify their respective needs to seal or redact any documents.

Respectfully Submitted,

/s/ Christopher Bagley

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Application GRANTED. The Clerk of Court is directed to terminate ECF No. 182.

SO ORDERED.



March 1, 2023